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4 UNITED STATES DISTRICT COURT
5 DISTRICT OF NEVADA

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7 STATE OF NEVADA,

8 Plaintiff,

9 v.

10 CRAIG IAN GILBERT,

11 Defendant.

Case No. 2:19-cv-01890-RFB-DJA

ORDER

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13 Before the Court is Defendant Craig Ian Gilbert's ("Defendant") application for leave to
14 proceed in forma pauperis and notice of removal. For the following reasons, the Court denies the
15 application and dismisses this case with prejudice.

16 Defendant seeks to remove an ongoing state court criminal proceeding to this Court. A
17 defendant in a state court criminal proceeding may not remove an ongoing state court criminal
18 proceeding to federal court unless the defendant was a federal officer acting in his official capacity,
19 which Defendant does not allege in this case. 28 U.S.C. § 1442(a)(1); Arizona v. Manypenny, 451
20 U.S. 232, 241 (1981).

21 Furthermore, to the extent that Defendant alleges any constitutional violations regarding
22 the ongoing state criminal court proceeding, Defendant must wait until the proceeding has
23 concluded and exhaust his remedies in state court pursuant to the federal habeas statutes before
24 filing a petition with this Court. 28 U.S.C. § 2241 *et seq* (habeas corpus).

25 Finally, Younger abstention prevents this Court from interfering with a pending state
26 criminal proceeding. Younger v. Harris, 401 U.S. 37 (1971) (federal courts may not interfere with
27 pending state court actions); Bijan v. Schindler, 14 F.App'x 893 (9th Cir. 2001) (affirming district
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1 court's dismissal of pro se party's complaint alleging constitutional violations in ongoing state
2 criminal court proceeding).

3 **IT IS THEREFORE ORDERED** that this case is dismissed with prejudice.

4 The Clerk of the Court is instructed to close the case.

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6 DATED: November 1, 2019.

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9 **RICHARD F. BOULWARE, II**
10 **UNITED STATES DISTRICT JUDGE**